IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CWP No.19627 of 2006

Date of Decision: February 13, 2007

Shivalak Primary School Society .....Petitioner

Versus

Guru Nanak Dev University, Amritsar & others .....Respondents

CORAM:- HON'BLE MR.JUSTICE J. S. KHEHAR
HON'BLE MR.JUSTICE S. D. ANAND

Present: Mr.Ajay Tewari, Advocate
for the petitioner.

Mr.DS Patwalia, Advocate
for respondent No.1.

Mr.Ashok Aggarwal, Additional AG Punjab.
for respondent No.2,

Mr.Anupam Gupta, Advocate,
for respondent no.4.

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S. D. ANAND, J.

1. The National Council for Teachers Education Act, 1993, amended by the National Council for Teachers Education (Amendment and Validation) Ordinance, 2006 (hereinafter referred to as NCTE) governs the issue of grant of recognition to the Institutions offering or intending to offer a course or training in Teachers Education. For ensuring planned and co-ordinated development of teachers education and for the determination and maintenance of standards for teachers education, the Regional Committee of the NCTE satisfies itself that the Institution applying for the grant of recognition has adequate financial resources, accommodation, library,

qualified staff, laboratory and that it fulfils such other conditions required for proper functioning of the Institution for a course or training in teachers education, as may be determined by regulations. If the Committee is satisfied that the applicant-institution has fulfilled the norms, the recognition would be accorded. In case there is a default, the order would be otherwise.

2. The petitioner in the matter before us applied for the grant of affiliation (for B.Ed. Course) for the period 2005-2006. Before granting provisional affiliation to the petitioner for the year 2005-2006, an inspection team deputed by the Competent Authority visited the premises on 29.6.2006 and noticed certain infrastructural deficiencies including the want of appropriate Faculty and Principal. Nonetheless, the provisional affiliation was granted to the petitioner for the session 2005-2006 and it (petitioner) was directed to make up the deficiencies at the earliest (Annexure P6). A reminder, in the context, was issued to the petitioner on 20.7.2006 (Annexure P7). In response thereto, the petitioner informed on 31.7.2006 (Annexure P8) that it had fulfilled all the conditions laid down by the Inspection Team of Guru Nanak Dev University, Amritsar and NCTE at the time of approval. It was further indicated in Annexure P8 that the details were enclosed therewith.

3. For the Academic session 2006-2007, the first and second counselling for admission to the B.Ed. Course in the entire State of Punjab was held from 10.8.2006 to 31.8.2006 and 10.9.2006 to 18.9.2006 respectively. No counselling, however, was held for admission to the petitioner College. As the petitioner had not, by then, received any response on point of grant of affiliation, it approached this Court by filing Civil Writ

Petition No.15503 of 2006. In that matter, a Committee was appointed by this Court (while disposing it of) to go into the aspect whether the requisite requirement had been met by the petitioner before the cut off date or not. The Committee (consisting of an Additional Secretary, Higher Education, Department of Punjab and the Registrar of respondent No.1) examined the records of the University as well as the concerned Colleges (in terms of the directions issued by this Court in the aforesaid matter) in the presence of the representatives of Managements of all the concerned Colleges who were also heard personally and opportunity was given to them to submit their claims as per the directions of the Hon'ble High Court. The Committee recorded the following finding viz-a-viz the petitioner:

> "This College was given provisional affiliation for the session 2005-06. But no regular lecturer was appointed for the entire session. The College was well aware that it is obligatory on them to recruit proper teaching staff before the admissions of 2006-07. After examining the record of this College, it was observed that the college was having four NET qualified lecturers before the cut off date i.e. 20.9.2006. The college did not provide any information regarding the recruitment of 3 adhoc lecturer upto 20.9.2006 and the University could not verify whether the college had requisite teaching staff as stipulated in the Govt. Memo dated 11.9.2006. Thus the college could not be given permission to admit the students for the current session having failed to meet the requirements of staff as explained. On the basis of the above facts, the committee finds the action taken by the University to be as per

rules." (underlining for emphasis).

4. The plea raised by the petitioner is that the Committee findings proceed on a factually incorrect premise inasmuch as it (Committee) did not at all notice that the fulfilment of the infrastructural requirement in toto had been communicated to the concerned quarters, vide Annexure P8, dated 31.7.2006 and the correctness of that averment has not been denied till date. Yet another plea advocated on behalf of the petitioner is that the respondents are estopped from denying affiliation inasmuch as it was on their asking that the continuation fee of Rs.10,000/- had been deposited by it. Reliance, in the context, was placed upon Annexure P12. It was otherwise conceded on behalf of the petitioner that no admissions for the current session had been made by it for want of affiliation.

5. On appreciation of the arguments aforementioned, in the light of the material available on the file, we find that the petitioner is not on a firmer footing. It is beyond the pale of controversy that the inspection team did point out the want of certain infrastructural facilities (including the want of a Principal and Faculty) vide an inspection carried out on 29.6.2006 (Annexure P6). A reminder, in the context, was issued to all the similar applicant-Institutions including the petitioner on 20.7.2006 (Annexure P7). Though the petitioner avers to have indicated the fulfilment of requirement vide letter dated 31.7.2006 (Annexure P8), the details averred to have been enclosed along with that letter have not seen the light of the day till date. There cannot be any manner of dispute that Annexure P8 does indeed contain an averment that the details indicating the fulfilment of relevant conditions were enclosed therewith. However, Annexure P8 does not contain any enclosure containing those details. Inspite of the fact that the

petitioner's representative attended the proceedings before the Committee (appointed by this Court in terms of order dated 7.11.2006 in Civil Writ Petition No.15503 of 2006) and was also afforded an opportunity of hearing, no such details were produced before the Committee as well.

6. In this case, it is illogical to argue that the details aforementioned are contained in Annexure P5, dated 27.2.2006. The details contained in Annexure P5 cannot, by any stretch of interpretation, be said to be relatable to the contents of Annexure P8, dated 31.7.1006. Even at the time of hearing before us, no effort was made on behalf of the petitioner to produce any documentary proof in support of the averment that the deficiencies pointed out by the inspection team had been met and intimated to respondent No.1, vide Annexure P8, dated 31.7.2006.

7. The Committee, appointed in terms of order dated 7.11.2006 of this Court in Civil Writ Petition No.15503 of 2006, conducted its proceedings in the presence of the representatives of the Management of the concerned Institutions. The records of those Institutions are recorded to have been perused by the committee which also afforded an opportunity of hearing to all the Management representatives including the representative of the petitioner-Institution. The petitioner is not proved to have made any presentation before the Committee that the infrastructural deficiencies pointed out by the inspection team, vide Annexure P6, had been removed. As would be evident from the perusal of para no.3 of this judgment, the Committee examined the records of the petitioner-Institution and after noticing that though it did have four net qualified lecturers before the cut off date i.e. 20.9.2006, it had not provided any other information regarding the recruitment of three adhoc lecturers upto 20.9.2006. It was for want of

relevant information that the team was unable to verify whether the college had requisite teaching staff as stipulated in the Govt. Memo dated 11.9.2006 or not. It is, thus, too late for the day for the petitioner to argue that the Committee finding proceeds on a factually incorrect premise.

8. Insofar as the payment of the demanded continuation fee is concerned, that too would not solve the riddle for the petitioner. It is a matter of common observation that such like demands are raised in routine. As would be apparent from a perusal of Annexure P-11 (i.e. the impugned letter vide which the continuation fee for the period 2006-07 had been demanded), it is addressed to "The Principal of all the Colleges affiliated to this University". The mere addressing of this letter by the University would not, in any manner, enable the petitioner to plead for the raising of an inference that the affiliation for the period 2005-06 (which is in controversy in the present writ petition) stood granted. The grant of affiliation has to be a positive and conscious act on the part of the University. The drawal of the advocated inference would not, at all, be in order particularly when there is a positive finding recorded by the inspecting team that the record presented before it by the management and also perused by it did not indicate compliance on the part of the petitioner qua the fulfilment of the infrastructural deficiencies pointed out earlier and vide Annexure P-10 dated 11.08.2006 as well. The inference aforesaid would not be allowable particularly when the similarly circumstanced institutions (including the petitioner) had already been addressed vide letter dated 20.07.2006 (Annexure P-7) to intimate the action taken by them qua the fulfilment of the infrastructural deficiencies which had been pointed out while granting the provisional affiliation to them for the academic session 2005-06.

9. The position that can, thus, be safely culled out from the above discussion is as under:-

While granting provisional affiliation to the petitioner for the academic session 2005-06, certain conditions had been imposed upon it by the N.C.T.E. As the fulfilment of those conditions had not been intimated by the petitioner, a reminder dated 20.7.2006 (Annexure P-7) was issued by respondent No.1. The Committee (appointed by this Court in Civil Writ Petition No. 15503 of 2006) inspected the records of the petitioner and also heard its management representative on 22.11.2006 and recorded a positive record-based finding that, "this College was given provisional affiliation for the session 2005-06. But no regular lecturer was appointed for the entire session. The College was well aware that it is obligatory on them to recruit proper teaching staff before the admissions of 2006-07. After examining the record of this college, it was observed that the college was having four NET qualified lecturers before the cut off date i.e. 20.9.2006. The college did not provide any information regarding the recruitment of 3 ad hoc lecturer upto 20.9.2006 and the University could not verify whether the college had requisite teaching staff as stipulated in the Govt. Memo. Dated 11.9.2006. Thus the college could not be given permission to admit the students for the current session having failed to meet the requirements of staff as explained. On the basis of the above facts, the committee finds the action taken by the University to be as per rules." Except the bald averment in the course of arguments, there is nothing on the record to indicate that the finding afore-mentioned recorded by the Committee is factually incorrect. The enclosures averred to have been enclosed with letter dated 31.7.2006 (Annexure P-8) have not been seen the light of the day till date. Those enclosures were also

not produced before the Committee.

10. For the reasons recorded in the preceding paras, we find no force in the petition. The Committee findings are not proved to be suffering from any factual or rule-related infirmity.

11. Dismissed.

(S. D. ANAND)
JUDGE

(J. S. KHEHAR)
JUDGE

February 13, 2007
SRM/VKD